

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

Omowale Ashanti Shabazz,)	
)	Case No. 3:13-cv-0091
Plaintiff,)	Judge Kevin H. Sharp
)	Magistrate Judge Knowles
v.)	Jury Demand
)	
Derrick Schofield, <i>et al.</i>)	
)	
Defendants.)	

DEFENDANTS' MOTION TO DISMISS AND RESPONSE TO
PLAINTIFF'S "MOTION FOR A PARTIAL SUMMARY JUDGMENT
AGAINST DEFENDANTS REBURN, GOUGE, ANDERSON, CHURCH
AND GENTRY" (D.E. 428)

Defendants, Anderson, Church, Gentry, Gouge and Reburn, by and through the undersigned Senior Counsel for the Tennessee Attorney General's Office, hereby move for dismissal of this case, pursuant to Fed. Rule Civ. Pro. 12(b)(1) as follows:

Dismissal is appropriate because the plaintiff has not exhausted his administrative remedies prior to filing suit, as required by 28 U.S.C. § 1997e(a). Because the plaintiff did not comply with the Tennessee Department of Correction's requirement for exhausting his administrative remedies (the prison grievance procedure set forth in TDOC Policy

501.01(VI)(C)(1)), the requirement mandated by 42 U.S.C.A. § 1997e(a) was not fulfilled and the law requires dismissal of this case on that basis. In support of this motion, defendants rely on the contemporaneously filed memorandum of law.

For the foregoing reasons, defendants respectfully request that this Court dismiss the instant complaint against defendants Anderson, Church, Gentry, Gouge and Reburn, based on the plaintiff's failure to exhaust his administrative remedies prior to filing suit. These defendants would further move for dismissal of the plaintiff's motion for partial summary judgment against them (D.E. 428) for the same reason.

Respectfully submitted,

HERBERT H. SLATERY III, #9077
Attorney General & Reporter

S/ Jennifer L. Brenner

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CERTIFICATE OF SERVICE

I hereby certify that a full and complete copy of the foregoing DEFENDANTS' MOTION TO DISMISS AND RESPONSE TO PLAINTIFF'S "MOTION FOR A PARTIAL SUMMARY JUDGMENT AGAINST DEFENDANTS REBURN, GOUGE, ANDERSON, CHURCH AND GENTRY" (D.E. 428) was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties, including the plaintiff, will be served by regular U.S. mail on this the 23rd day of December, 2014:

Omowale Shabazz (Fred Dean)
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S/ Jennifer L. Brenner

Jennifer L. Brenner
Senior Counsel